

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

Minutes
May 18, 2006
1:00 p.m.

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Thursday, April 27, 2006 in Nashville, Tennessee at 1:00 p.m. Chairman John Jones, Commissioners Cynthia Bond and Harlan Mathews were present. Executive Director Danielle Elks, Assistant Director Carolyn Smith, CLEO Mark Hutchens, SAC Mike Cawthon, ASAC Andy Woodall and SA Matthew Larkins from the staff were present.

1. The Minutes for April 27, 2006 Commission Meeting were approved.

2. RETAIL PACKAGE STORES

**A. FORKED VINE WINE AND SPIRITS
JACKSON, TENNESSEE (MADISON COUNTY)**

Licensee:	The Forked Vine Wine & Spirits, LLC
Member(s):	John Everett
New Member:	Fred Everette Teague, III

Before the Commission is a request for a transfer of location of the Forked Vine Wine and Spirits currently located at 715 Old Hickory Boulevard in Jackson, Tennessee. The licensee desires to move to 621 A2 Old Hickory Boulevard also in Jackson. The request for the move is predicated upon the desire for additional parking spaces and greater floor space. John Everett also desires to sell 15% of his ownership interest to Fred Everette Teague, III; Mr. Everett would retain 85% ownership interest. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Use and Occupancy of new location;
- c. Release from current landlord;
- d. Bill of Sale to Teague;
- e. Financial background check of Teague.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners. She recommended approval upon submission of the following documentation:

- a. TABC Inspection;
- b. Use and Occupancy of new location;
- c. Release from current landlord;
- d. Bill of Sale to Teague;
- e. Financial background check of Teague.

Commissioner Mathews made a motion to approve upon submission of the pending documentation. Commissioner Bond seconded the motion, and it was approved with 3 ayes.

3. CONTESTED CASES

a. ADMINISTRATIVE HEARINGS

i. CANDACE ANNE GIRANC

On March 21, 2006, TABC Agent Matt Larkins issued an administrative citation to Ms. Giranc for a violation of T.C.A. §57-4-203(b), sale of alcoholic beverages to a minor. Ms. Giranc worked at Texas Roadhouse in Franklin, Tennessee. An administrative citation was issued and remains unpaid.

Discussion/Action Taken:

Candace Giranc and SA Matthew Larkins were present at the meeting. Assistant Director Smith reviewed the contested case for the Commissioners. The facts of the case are as follows: On March 21, 2006, SA Larkins stated that he had been contacted by the Franklin Police Department to assist with a minor investigation of a liquor licensed establishment in the city limits of Franklin. Franklin City Police Department had an underage informant who was 19 years of age that they wanted to use for compliance checks at TABC licensed premises. Agent Larkins testified that he observed a server come to the informant's table and ask if she could serve the informant. Agent Larkins further testified that the server went to the back of the kitchen. At that time another server, Candace Giranc, served the informant a Strawberry Daiquiri. SA Larkins stated that no one at the restaurant checked the informant's ID before taking her order and before serving her. He testified that she did not have an ID on her. Assistant Director requested that the Commission uphold the administrative citation.

Candace Giranc testified that the server who took the informant's order failed to check the license of the informant. Candace Giranc testified that she failed to check the ID of the informant also. She further

MINUTES FOR THE MAY 18, 2006 COMMISSION MEETING – PAGE 3

testified that in the server training class did not state that she had to check a person's ID if another server took the order.

Assistant Director Smith stated that the staff's position is that Ms. Giranc served the alcoholic beverage to the informant without knowing what the age of the informant was. She stated that there was a 61 day grace period between when you start as a server and when you are required to have your server permit. During this time period, employees may not have had training. Assistant Director Smith stated that the staff is not requesting that the Commission revoke Ms. Giranc's server permit—merely that the Administrative Citation be paid. She stated that the establishment has also been fined

Chairman Jones and Commissioner Mathews expressed concerns over whether the defendant should be held responsible under this set of circumstances. After discussion, Commissioner Mathews stated that he would be more inclined to uphold the citation in this set of circumstances if the citation were issued to the person who took the drink order and instructed the defendant to fill the order.

Chairman Jones stated that he did not know what was currently being taught in the training classes on the responsible service of alcohol, but stated that such training should reflect that it is the responsibility of the person delivering the drink to insure the age of the person receiving the drink. In this case, the defendant did not know it was her responsibility to check the identification. Chairman Jones further stated it was ultimately the licensee's responsibility.

Director Elks indicated that either the licensee had received or was in the process of receiving a citation for the maximum fine of fifteen hundred dollars. However, if the Commission felt the monetary fine was insufficient, staff could begin issuing suspension of licenses upon direction of the Commission.

Chairman Jones made a motion to dismiss, which was seconded by Commissioner Mathews. Chairman Jones stated that he appreciated the staff and the agents, and hoped that that this situation did not discourage the staff. However, he was not comfortable under this set of circumstances that the defendant should bear the brunt of the punishment.

Commissioner Mathews stated that the Commission has two responsibilities: one to uphold the TABC staff, and another to the public and to people like the defendant who makes their livelihood at licensees. He stated that he would expect the person who takes the order to check

MINUTES FOR THE MAY 18, 2006 COMMISSION MEETING – PAGE 4

identification of the person ordering the drink. A responsibility exists to support the working force and those caught in unforeseen situations.

Commission Bond stated that the defendant should have asked for identification before serving the drink, and that she would be in favor of the defendant paying a fine, and the owner receiving the maximum fine. She further stated that it was very important that the person serving the alcohol to a customer be aware and follow through with the procedures because they are the ones in contact with the customer.

Upon the vote on the motion to dismiss, Chairman Jones and Commissioner Mathews voted aye.¹ Commissioner Bond voted nay.

ii. CHAD McWHERTER

On March 21, 2006, TABC Agent Matt Larkins issued an administrative citation to Mr. McWherter for a violation of T.C.A. §57-4-203(b), sale of alcoholic beverages to a minor. Mr. McWherter worked at Genghis Grill in Franklin, Tennessee. An administrative citation was issued and remains unpaid.

Discussion/Action Taken:

Assistant Director Smith stated that the Administrative Citation has been resolved. She stated that payment for the citation has been paid; therefore, a hearing is not necessary.

4. SPECIAL OCCASION LICENSES

5. CONSUMER EDUCATION SEMINAR LICENSES

6. PERSONNEL

7. BUDGET – Director Elks stated that as of the end of April, the agency has collected \$4,057,000.00. She stated that the TABC is required to collect almost \$4.6 million dollars. Thus, \$270,000.00 in each of the last two months of the fiscal year must be collected. She stated that collections average \$400,000.00 per month.

8. CONSENT ORDERS

9. PENDING MATTERS LIST

¹ It was unclear at the time of the creation of the minutes how to record Commissioner Bond's vote. Subsequent verification was made to record Commissioner's Bond vote as nay.

MINUTES FOR THE MAY 18, 2006 COMMISSION MEETING – PAGE 5

- 10. MISCELLANEOUS** - Chairman Jones issued the 2006 Team Work Award to the agents of the Nashville District. He stated that the Nashville District won the team building events at the Gatlinburg, Tennessee Agent's Conference.
- 11. DATE OF NEXT MEETING** – June 15 and July 20, 2006 at 1:00 p.m.

There being no further business the meeting was adjourned.

Shari Danielle Elks
Executive Director

John A. Jones
Chairman